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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourth session

SUMMARY RECORD OF THE 75th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 September 1993, at 10.30 a.m.

Temporary Chairperson: Mr. FALL (Representative of the Secretary-General)

Chairperson: Mrs. BADRAN

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GE.93-18503 (E)

The meeting was called to order at 11.10 a.m.

OPENING OF THE SESSION (item 1 of the provisional agenda)

1. The TEMPORARY CHAIRPERSON, speaking on behalf of the Secretary-General, declared open the fourth session of the Committee on the Rights of the Child and welcomed all the participants. He assured them of the support of the Centre for Human Rights in carrying out their tasks. The Centre for Human Rights attached very special importance to the promotion and protection of the rights of the child and to the Committee's role as the active conceptual framework for the monitoring, promotion and protection of those rights.

2. With 146 ratifications recorded on 6 September, the objective, set at the World Conference on Human Rights of universal ratification by 1995 of the Convention on the Rights of the Child, which could be described as a charter of children's rights, was likely to be achieved.

3. He went on to review the events relating to human rights which had taken place since the previous session of the Committee on the Rights of the Child and had a bearing on the Committee's work. First, he mentioned that the Commission on Human Rights, at its forty-ninth session, had discussed in depth the question of the rights of the child and had adopted several resolutions by consensus. A summary of the views expressed by delegations and of the contents of the relevant resolutions had been brought to the attention of the Committee on the Rights of the Child. The Commission, in its resolution 1993/78, had welcomed the constructive and useful results achieved by the Committee on the Rights of the Child during its first three sessions, as well as the "decision of the Committee at its second session to consider the reservations and declarations entered by States parties to the Convention when examining the reports of the States parties, with a view to encouraging the withdrawal of those reservations and declarations no longer considered necessary". In that regard, he recalled that the Vienna Conference had likewise requested the Secretary-General to enter into contact with States with a view to learning the reasons for their reservations and declarations, with a view to their withdrawal.

4. Lastly, the Commission had welcomed the decision of the Committee to recommend that the General Assembly should initiate a study on children in armed conflicts. In resolution 1993/78, the Commission had expressed concern at the increasingly heavy workload of the Committee and at the resulting difficulties faced by it in the fulfilment of its functions, and had taken note with interest of the methods of work established by the Committee, including the adoption of an urgent action procedure.

5. Turning to the activities of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, whose previous session had ended on 27 August, he said that a summary of the statements on issues relating to the rights of the child and of the contents of resolutions adopted at the forty-fifth session were likewise available to the Committee. The Sub-Commission had, inter alia, taken note of the report of the Working Group on Contemporary Forms of Slavery on the work of its eighteenth session. It had expressed the wish that the Committee should be represented at the meeting

of experts, which the Secretary-General proposed to organize in 1994, on the application of international standards relating to the human rights of young detainees.

6. Referring to the World Conference on Human Rights, he said that the Committee on the Rights of the Child had been represented by its Chairperson and two of its members and that it intended, in addition to its customary consideration of reports of States parties, to review in detail the Vienna Declaration and Programme of Action adopted by consensus at the conclusion of the Conference. The Committee would also wish to consider the impact of those texts in the sphere of the rights of the child. He briefly recalled that the Vienna Conference had given special attention to the rights of children and devoted a whole day of thematic discussion to them. It had also called for ratification by all States of the Convention by 1995 and had urged States parties to withdraw reservations contrary to the object and purpose of that instrument. It had also urged all States, with the support of international cooperation, to assist children under especially difficult circumstances. Further, it had supported all measures by the United Nations system to ensure the effective protection and promotion of human rights of the girl child. Lastly, the World Conference had recommended that the Committee on the Rights of the Child should be provided with the requisite means to meet its mandate expeditiously and effectively, in view of the unprecedented number of States which had ratified the Convention and submitted reports.

7. Similarly, the Conference had recommended that matters relating to the situation of children and their rights should be regularly reviewed and monitored by all relevant organs and mechanisms of the United Nations system and by the specialized agencies. In a wider context, the World Conference had reaffirmed the important role of the treaty bodies established pursuant to human rights instruments for the promotion and protection of those rights. It had also recommended that those bodies should continue the adoption of measures to coordinate the many reporting obligations imposed on States and to harmonize their guidelines for the preparation of reports.

8. In the same spirit, the Conference had recommended continued work on the improvement of the functioning, including the monitoring tasks, of the treaty bodies, taking into account the proposals made in that respect by those bodies themselves and by the meetings of their chairpersons. While on the subject of the World Conference, he referred to the first meeting of persons chairing bodies established pursuant to international and regional human rights instruments. At the conclusion of that exceptional meeting, the representatives of those bodies had adopted the Vienna Declaration of international human rights treaty bodies, in which they stressed that the various monitoring mechanisms formed an integral part of the global system for the promotion and protection of human rights. Of the recommendations addressed by that meeting to the World Conference, he mentioned the universal ratification, by the year 2000, of the six basic United Nations international human rights instruments, the limitation of the number and scope of reservations formulated by States parties, the improvement of existing procedures for presenting individual communications, strict observance of the obligations assumed by virtue of those instruments, the allocation of adequate human and financial resources to enable those bodies to discharge their

mandates effectively and speedily, and the holding of regular meetings of the representatives of the mechanisms established pursuant to international and regional instruments.

9. Elaborating on the recent activities of other treaty bodies, he said that at its twelfth session in Vienna in January 1993, the Committee on the Elimination of Discrimination against Women had prepared a draft general recommendation concerning articles 9, 15 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women, which contained provisions relating to the family. It had also declared itself in favour of taking steps in conjunction with other human rights treaty bodies to request the International Court of Justice for an advisory opinion to clarify the question of reservations.

10. The Committee on the Elimination of Racial Discrimination had held its forty-second and forty-third sessions in March and August 1993 respectively. At its forty-second session, it had considered measures to prevent violations of the International Convention on the Elimination of All Forms of Racial Discrimination, including early warning and urgent procedures. At its forty-third session, it had decided to adopt the practice of the Committee on the Rights of the Child, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights of formulating, after completing consideration of each country report, written conclusions reflecting the main points discussed and indicating the principal subjects of concern which called for further effort.

11. The Human Rights Committee had held its forty-seventh and forty-eighth sessions in March-April and July respectively. At its forty-eighth session, it had adopted a general comment on article 18 of the International Covenant on Civil and Political Rights, in relation to freedom of conscience and religion.

12. At its tenth session, in April, the Committee against Torture had held a joint meeting with the United Nations Voluntary Fund for Victims of Torture.

13. At its May session, the Committee on Economic, Social and Cultural Rights had amended its rules of procedure to enable non-governmental organizations to participate to a greater extent in its meetings. The NGOs could henceforth communicate information to the Committee both in written form and orally at the beginning of each of the pre-sessional meetings of its working group and at the beginning of the meetings of the Committee itself.

SOLEMN DECLARATION BY NEWLY ELECTED MEMBERS OF THE COMMITTEE (item 2 of the provisional agenda)

14. The TEMPORARY CHAIRPERSON reminded the Committee that in accordance with rule 15 of its provisional rules of procedure, the five members of the Committee who had been elected or re-elected at the third meeting of States parties, in February 1993, were required to make the following solemn declaration: "I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Rights of the Child honourably, faithfully, impartially and conscientiously." One of the new members, Mrs. Gonçalves, was absent.

15. Mrs. BADRAN, Mrs. EUFEMIO, Mr. MOMBESHORA and Mrs. SANTOS PAIS made the solemn declaration in accordance with rule 15.

ELECTION OF THE OFFICERS OF THE COMMITTEE (item 3 of the provisional agenda)

16. Mr. KOLOSOV proposed that Mrs. Badran should continue as Chairperson. That proposal was supported by all other members of the Committee.

17. The TEMPORARY CHAIRPERSON noted that no other member of the Committee wished to comment at that juncture or propose any other candidate.

18. Mrs. Badran was re-elected Chairperson by acclamation and took the Chair.

19. The CHAIRPERSON thanked the Committee for the confidence shown in her and undertook to make every effort to be equal to her tasks. She also thanked the secretariat of the Centre for Human Rights, the non-governmental organizations and the United Nations agencies, in particular UNICEF, for the support which they had given her in the past.

20. Mr.KOLOSOV nominated Mrs. Santos Pais for re-election to the office of Rapporteur.

21. Mrs. SANTOS PAIS was re-elected Rapporteur.

22. The CHAIRPERSON invited the Committee to elect the three Vice-Chairpersons.

23. Mr. KOLOSOV nominated Mrs. Belembaogo, Mr. Hammarberg and Miss Mason for the office of Vice-Chairperson.

24. Mrs. Belembaogo, Mr. Hammarberg and Miss Mason were elected Vice-Chairpersons by acclamation.

25. Mr. BAMBAREN GASTELUMENDI expressed his gratitude to the States parties for taking account of the Committee's concerns by re-electing four of the experts whose mandate was about to expire. The teamwork already begun would thus be able to continue for a further two years.

ADOPTION OF THE AGENDA (item 4 of the provisional agenda)

26. Mr. KOLOSOV recalled that two communications had been forwarded to the Committee which was required to respond to them one way or the other. They could either be discussed under item 15 of the provisional agenda, other matters, or be added as a new item.

27. Miss MASON considered that the Committee should, first of all, decide whether the matters raised in the two communications were important and urgent, a sine qua non for the inclusion of a new agenda item.

28. Mrs. BELEMBAOGO proposed that the Committee should adopt the agenda as it appeared in document CRC/C/17, and revert, at a later stage, to the inclusion of the communications in item 15.

29. Mr. HAMMARBERG said that items 10 and 13 only appeared on the provisional agenda for purely formal reasons. In fact, an informal meeting on that issue was scheduled for 9 October, and the participants at the meeting would report to the Committee at its next session. Consideration of the methods of work of the Committee (item 12 of the provisional agenda) would not be just a routine item as the Committee was required to transmit an important message to the Assistant Secretary-General for Human Rights, so that he could pass it on to the General Assembly.

30. The CHAIRPERSON said that, if there was no objection, she would take it that the Committee wished to adopt the provisional agenda as it appeared in document CRC/C/17, and to consider, at a later stage, the incorporation of the matters raised by Mr. Kolosov into item 15.

31. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5)

32. The CHAIRPERSON proposed that the members of the Committee should examine the draft programme of work drawn up by the secretariat and distributed in an un-numbered document.

33. Mrs. SANTOS PAIS said that although the draft programme of work was very comprehensive, she had reservations about the proposal not to take up items 10, 12, 13 and 14 in a public meeting. The Committee's reactions to some of those questions were awaited, and, furthermore, it was important that the non-governmental organizations and other international organizations should be kept informed of the dates scheduled for the forthcoming meetings, as well as list of States whose reports were soon to be considered. She therefore proposed that those items should be discussed in a public meeting.

34. The CHAIRPERSON said that, if there was no objection, she would take it that the Committee wished to adopt the proposal made by Mrs. Santos Pais.

35. The provisional programme of work, as amended, was adopted.

SUBMISSION OF REPORTS BY STATES PARTIES IN ACCORDANCE WITH ARTICLE 44 OF THE CONVENTION (agenda item 7) (CRC/C/3, CRC/C/8/Rev.2, CRC/C/11/Rev.2, CRC/C/17 and CRC/C/18)

36. Mr. HAMMARBERG said that States parties had undertaken to submit their reports to the Committee within two years following the date of ratification of the Convention. The fact that the Committee had a heavy workload did not mean that it should adopt a relaxed attitude with regard to that obligation. It was therefore necessary to find a formulation that would make it possible to remind States parties to the Convention which had not submitted their report by the date due of that obligation.

37. Mrs. RAADI (Secretary of the Committee) recalled the decision taken by the Committee at its previous session to request the secretariat to contact by telephone the permanent missions of States parties which had not submitted a

report by the due date in order to inform them of the Committee's concern. However, no formal decision had been taken by the Committee on the question of possible reminder letters.

38. Mr. HAMMARBERG thought it necessary to consider the possibility of sending a letter of reminder, drafted in the most diplomatic terms possible.

39. Mrs. SANTOS PAIS supported Mr. Hammarberg's proposal. In her opinion, however, it must not be forgotten that the Convention on the Rights of the Child had received unprecedented support by the international community. It was possible that Governments had not yet transmitted their reports because they attached great importance to the question and wished to examine it in detail. However, an obligation freely assumed was involved and she proposed that States parties which had not yet submitted reports should be reminded informally of their obligations under the Convention. If there was no reaction, the Committee could then send a more formal letter on the subject.

40. Mr. MOMBESHORA thought that the Committee should determine the length of the period after which a reminder would be sent to the Governments of States parties which had not submitted a report by the date due.

41. Mrs. BELEMBAOGO said that before a reminder was sent to a State party, the Centre for Human Rights should ascertain whether that State's report had not been already received by a United Nations body, for example the Economic and Social Council.

42. Mgr. BAMBAREN GASTELUMENDI thought that the Committee should send a letter to States parties some time before the end of the period within which they were required to submit their reports and not a year later.

43. Mr. HAMMARBERG endorsed Mgr. Bambaren Gastelumendi's proposal. The Committee might also send to each State which had ratified the Convention recently a letter in which it would recall the obligations arising from that instrument. UNICEF could also help the Committee along those lines in the States parties where that organization had field offices. Lastly, he proposed that the Committee should request some of its members to prepare drafts of letters that might be sent to States parties.

44. Mrs. EUFEMIO said she would like those letters to remind States parties that they could, if they so wished, request technical assistance in order to prepare their report.

45. Mr. HAMMARBERG added that it would also be necessary to specify that national plans of action and the reports to be submitted to the Committee were two different things.

46. Mr. MOMBESHORA noted that some African States would like to combine the report that they had to submit to the Committee and that which they had to prepare under the African Charter of Human and People's Rights.

47. Mrs. SANTOS PAIS recalled that at the World Conference on Human Rights a document on technical assistance submitted by Mr. Fall had been adopted by consensus.

48. Mr. KOLOSOV recalled that after the initial report States parties had to submit reports to the Committee only every five years. He thought that the Committee should be informed more frequently of developments in the situation of children in States parties. He therefore proposed that in accordance with article 44, paragraph 4, of the Convention, the Committee should send to States parties two years after they had submitted their report a letter in which it would ask them what measures they had taken to give effect to the recommendations made by the Committee.

49. Mr. HAMMARBERG endorsed the view expressed by Mr. Kolosov, but would like the question to be examined under agenda item 12 relating to the methods of work of the Committee.

50. He proposed that a working group composed of Mr. Kolosov, Mr. Mombeshora and Mrs. Santos Pais should prepare, on the basis of various proposals made by members of the Committee, a working document concerning the submission of reports by States parties.

51. The CHAIRPERSON summed up the various suggestions made in that regard by the members of the Committee. Noting that there was no objection to Mr. Hammarberg's proposal to set up a working group, she considered that the proposal had been accepted.

52. Miss MASON thought that it was for the Centre for Human Rights and the Committee, and not UNICEF, to remind States parties of their obligation to submit reports.

53. Mrs. ASTRUP (United Nations Children's Fund) observed that UNICEF worked with States parties in an informal manner and therefore did not wish to put itself forward in the matter of reports.

54. Mrs. SANTOS PAIS said that she approved the view expressed by Miss Mason. She thought, however, that the Committee should, as recommended by the World Conference on Human Rights, strengthen its cooperation with UNICEF, which helped many countries to implement their national plan of action.

55. Mgr. BAMBAREN GASTELUMENDI said that the Committee should not confine itself to examining the reports of States parties. It should also monitor respect for human rights and intervene in one way or another whenever those rights were seriously violated.

56. The CHAIRPERSON suggested that the Committee should continue its consideration of agenda item 7 at a later stage, after the working group it had decided to set up a few minutes previously had drafted its proposals.

57. It was so decided.

FUTURE MEETINGS OF THE COMMITTEE (agenda item 14)

58. The CHAIRPERSON invited the secretariat to inform the Committee of the probable dates of the future meetings of the Committee and the pre-sessional working group.

59. Mrs. RAADI (Secretary of the Committee) said that the fifth and sixth sessions of the Committee were scheduled to be held, respectively, from 10 to 28 January 1994 and from 26 September to 14 October 1994. The meetings of the pre-sessional working group were to be held, respectively, from 27 June to 1 July 1994 and from 14 to 18 November 1994. The timetable for the consideration of the reports of States parties had not been established, since that would depend on the time which the Committee would devote to the consideration of each report. Lastly, she said that the Centre for Human Rights had received reports from the following countries: Argentina, Belarus, Burkina Faso, Chile, Colombia, Czech Republic, Denmark, France, Honduras, Jordan, Madagascar, Mexico, Namibia, Norway, Pakistan, Paraguay, Romania and Spain.

METHODS OF WORK OF THE COMMITTEE (agenda item 12)

60. Mrs. EUFEMIO said that in view of the number of reports received by the Centre for Human Rights, she feared that the Committee would be unable to consider all of them within the prescribed timeframe and that some reports might no longer be current by the time they were considered.

61. Mr. HAMMARBERG said he did not think that the Committee would be able to examine all those reports in two sessions.

62. Mrs. SANTOS PAIS said that she, too, thought that in order to carry out its task appropriately, the Committee should hold an additional session.

63. Mr. HAMMARBERG recalled the decision taken by the Committee at one of its early sessions that any report received from a State party should be examined within one year. However, the Committee was no longer able to proceed in accordance with that decision and should therefore take extraordinary measures. For the Committee on the Rights of the Child, the consideration of the implementation of the Convention on the Rights of the Child was all the more important since the NGOs were more mobilized for that Convention than for any other. It was therefore a matter for concern that the Committee might lose its momentum by not being equal to the expectations of the NGO community. The Committee should not form a bottleneck in the system that it wished to promote and whose operation it sought to improve.

64. The Committee definitely needed an extra session in 1994, but even that would not be enough. The time devoted to each country would also have to be cut down. It gave him no pleasure to propose that no more than six hours, or two meetings, should be spent on each country; the Committee could not afford to consider only six country reports in a three-week session.

65. The Committee's preparation of its sessions ought also to be reviewed, since it was probably not efficient enough. Many aspects had to be considered and a number of reforms adopted, including increased support from the

secretariat, which implied more support from the General Assembly to the Centre for Human Rights. It was therefore important that the present session should review the Committee's methods of work.

66. The CHAIRPERSON recalled that during the previous session Mrs. Santos Pais had prepared a document containing suggestions for improving the work of the Committee.

67. Mrs. SANTOS PAIS said that a working paper on the subject had also been prepared by Mr. Hammarberg. It would be useful to discuss the subject in depth and take all possible contributions into consideration.

68. Apart from extra sessions and additional help for the Committee in preparing for the consideration of reports from States parties, other important issues needed to be looked at. One was the question of informal meetings; their degree of usefulness ought to be ascertained and the assistance they could provide in the future. Another was the procedure to be followed when urgent action was required; a more effective system had to be found. A number of organizations had asked the Committee to take action in the case of children in extremely painful circumstances. Some system must be found to bring such information to the attention of members of the Committee or the secretariat without delay when circumstances so required. The Committee had to be in a position to decide when it was faced with an emergency calling for special measures. Admirable methods of work were not enough.

69. It was also important to look into ways to improve cooperation between the Committee and other United Nations bodies, specialized agencies and divisions such as the Crime Prevention and Criminal Justice Branch at Vienna. What contribution could be made to the International Year of the Family? How could cooperation with non-governmental organizations be improved? Those were some aspects that ought not to be overlooked.

70. The CHAIRPERSON noted that there was a whole series of questions to be considered under item 12 of the Committee's agenda: informal meetings, workload of the Committee, emergency action procedures, flow of information within the Committee and between the Committee and the Centre, and relations between the Committee and other United Nations bodies and international organizations.

71. Miss MASON suggested that attention should first be given to the question of establishing urgent action procedures. Depending on circumstances, the Committee might be called upon to issue a condemnation, make requests or take other urgent action.

72. Mrs. EUFEMIO said that the Committee on the Elimination of Discrimination against Women asked for special reports from countries in which violations of women's rights were known to have occurred. That had happened in the case of the former Yugoslavia. Perhaps that Committee could inform the Committee on the Rights of the Child about its success in obtaining such special reports. However, the Committee on the Rights of the Child already had enough difficulty in coping with the workload represented by consideration of ordinary reports.

73. The CHAIRPERSON said that a backlog in the submission of ordinary reports should not prevent requests being made for special reports.

74. Mr. HAMMARBERG said that there was a gap between the Committee's aspirations and the resources at its disposal. A number of aims were already set out in the Convention. Urgent action was an extra one. However, the Committee had very limited resources, both as regards the time available to it or the services it could call on from the Centre for Human Rights. The problem was not merely of coping with the workload, but also of doing a good job. There were several aspects to doing a good job, one of which was the ability to respond quickly to situations calling for immediate action. The Committee had made the procedure for considering country reports something more than just a routine operation. It was apparent from the discussions the Committee had with government representatives that they took the matter seriously. That was one reason for the backlog in submission of reports. A number of the reports received by the Committee had been excellent; they were interesting and displayed a willingness to engage in self-criticism. The process of preparing reports had led a number of countries to take measures and to look into the possibility of establishing ombudsmen or national committees, or to review their legislation. In over half the reports, Governments had indicated that new, comprehensive legislation on protection of the child had been submitted to Parliament. Those developments would probably not have occurred without the report preparation procedure. The consideration of reports of States parties was thus very important; even if the Committee did nothing else, its work would still be useful. However, the Committee did have greater ambitions.

75. He regretted that the presessional working groups did not prepare the Committee properly for its discussions with States parties. The Committee remained inadequately informed about the countries concerned and their essential characteristics. Some way would have to be found to ensure that the discussion had an impact on the situation in countries.

76. It would appear that in the other committees established under human rights instruments, the process of considering the reports of States parties was less than satisfactory, due to lack of proper preparation or knowledge of the countries under review. The Committee on the Rights of the Child ought to be better prepared for consideration of the reports of States parties. Participation by non-governmental organizations should be ensured and contacts with United Nations agencies strengthened; such agencies should perhaps give the Committee greater support. On that point, the absence of UNESCO from sessions of the Committee was particularly regrettable.

77. As for the establishment by the Committee of urgent action procedures, it would be extremely difficult to determine when such action was called for. Care would have to be taken not to fall into the trap of reacting to what was headline news during the week the Committee was in session. Any action by the Committee should, on the contrary, be based on properly documented information. The Committee should also be consistent and not lay itself open to charges of opportunism or arbitrariness. That would require a great deal of advance work and greater support from the Centre for Human Rights.

78. The Committee members were apparently all agreed on the need for three sessions a year, but most had very demanding duties elsewhere. The Committee on the Rights of the Child was the highest authority for the interpretation of the Convention on the Rights of the Child; it could not therefore allow itself to compromise on the quality of its work and should be seen as a body fully aware of its responsibilities.

79. Mrs. SANTOS PAIS said that she too felt that the Committee should not base its action on what made newspaper headlines. There were, however, situations on which it ought to act, otherwise children would wonder what it was for. Although individuals could feel powerless to deal with certain situations, that ought not to be the case with the Committee. It was not alone, and together with the other committees established under international human rights instruments, could undoubtedly find appropriate answers. Permanent machinery for deciding when a serious emergency was involved should be considered. Such machinery would have to rely heavily on the secretariat, to which firsthand information was sent. Rapid contact would have to be able to be established between the Chairperson and officers of the Committee, to enable the latter to decide whether to take action in any given situation. The Committee could then ask for information from the Government of the country concerned, which should not take very long. The Committee could bring an emergency to the attention of other United Nations bodies with responsibilities at the field level. Unfortunately, despite the support given by States to the Convention, children continued to be the victims of extreme situations in which their rights were comprehensively violated and totally ignored. The Committee could not remain silent.

80. Miss MASON endorsed the views expressed by Mrs. Santos Pais. Although, as Mr. Hammerberg had said, the Committee should not give the impression of being an opportunistic and arbitrary body, it could not be content to talk while children were continuing to suffer. Its first task should be to decide what it meant by an emergency. Their election by the General Assembly empowered the members of the Committee to express their views, even if that entailed condemning what was happening in any given country. The Committee could not confine itself merely to commenting on the reports submitted by States parties.

The meeting rose at 1.05 p.m.